

Senate Bill No. 204

Passed the Senate September 4, 2015

Secretary of the Senate

Passed the Assembly September 3, 2015

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2015, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 10110 of the Public Contract Code, and to amend Sections 513, 5001, 5002.2, 5080.16, and 5080.42 of, and to add Sections 5001.2 and 5080.44 to, the Public Resources Code, relating to state parks.

LEGISLATIVE COUNSEL'S DIGEST

SB 204, Pavley. State parks.

Existing law establishes the Department of Parks and Recreation and vests the department with the control of the state park system.

This bill would require the Director of Parks and Recreation to promote and regulate the use of the state park system in a manner that conserves the scenery, natural and historic resources, and wildlife in the individual units of the system for the enjoyment of future generations.

Existing law requires the department to prepare a general plan or revise an existing plan for a unit of the state park system following classification or reclassification of the unit by the State Park and Recreation Commission, and prior to the development of any new facilities in any previously classified unit.

This bill would authorize the department to prepare a management or development plan that includes appropriate environmental review and analysis instead of a general plan for a park unit to which new development is necessary to comply with public service delivery obligations, operational or code compliance upgrades, or resource preservation requirements that are compatible with the classification of the unit.

Existing law, until January 1, 2019, authorizes the department to enter into an operating agreement with a qualified nonprofit organization for the development, improvement, restoration, care, maintenance, administration, or operation of a unit, or units, or portion of a unit, of the state park system, but authorizes the department to enter into an operating agreement that involves the operation of the entirety of a park unit only to avoid closure of a unit or units of the state park system that may otherwise be subject to closure.

This bill would delete the repeal date of that provision, thereby extending its operation indefinitely, and would delete the above limitation on the department's authority to enter into an operating agreement that involves the operation of the entirety of a park unit. The bill would also authorize the department to accept donations of money from public or private sources to be used for the purpose of funding park programs to benefit youth, as defined. The bill would authorize the department to enter into agreements with public or nonprofit organizations that serve youth, to provide service and learning opportunities for youth, as described.

Existing law authorizes the Director of General Services to permit the department to carry out a project where the nature of work is historic preservation of the state park system. Existing law requires the department to solicit bids and award the project to the lowest responsible bidder or reject all bids, if the estimated total cost of the project exceeds \$25,000, except as provided.

This bill would make those requirements applicable if the total estimated cost of the project exceeds \$50,000.

The people of the State of California do enact as follows:

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) Nearly 35,000 volunteers contribute their time and energy to the Department of Parks and Recreation, thereby enhancing the experiences of visitors, complementing the work of departmental staff, and generating economic activity through their voluntary efforts at state parks.

(2) The department estimates that volunteers contribute more than 1,000,000 hours each year and generate nearly twenty-five million dollars (\$25,000,000) in economic value to the local and regional economies around state parks through these substantial volunteer efforts.

(3) It is the department's existing practice to offer one or more types of complimentary passes to the department's volunteers in recognition of their value-added contributions. Those complimentary passes should also be offered to the volunteers at cooperating associations in recognition of the value-added services they provide.

(b) It is the intent of the Legislature that the Department of Parks and Recreation extend the existing policies for the issuance of complimentary state park passes to persons who volunteer at state parks through cooperating associations, as defined in Section 513 of the Public Resources Code, consistent with the California State Government Volunteers Act set forth in Chapter 8.5 (commencing with Section 3110) of Division 4 of Title 1 of the Government Code.

SEC. 2. Section 10110 of the Public Contract Code is amended to read:

10110. (a) Where the nature of the work is historic restoration for the state park system, as determined jointly by the director and the Director of Parks and Recreation, the department may authorize the carrying out of the project directly by the Department of Parks and Recreation.

(b) If the estimated total cost of any construction project or work carried out under this section exceeds fifty thousand dollars (\$50,000), the Department of Parks and Recreation shall solicit bids in writing and award the work to the lowest responsible bidder or reject all bids. However, the director may authorize the Department of Parks and Recreation to carry out work in excess of fifty thousand dollars (\$50,000) under the provisions of this section by day labor if the director determines, in consultation with the Director of Parks and Recreation, that the award of a contract, the acceptance of bids, or the acceptance of further bids is not in the best interests of the state. The Department of Parks and Recreation shall establish, by regulation, criteria to be considered by the Department of Parks and Recreation in requesting authorization from the director to perform all or part of a project by day labor.

SEC. 3. Section 513 of the Public Resources Code is amended to read:

513. (a) The department, as a means of furthering the interpretive and educational functions of the state park system, may enter into an agreement to act cooperatively with a nonprofit cooperating association engaged in educational or interpretive work in a state park system unit, as the director may designate, whereby the cooperating association would furnish educational and interpretive materials, or educational and interpretive services,

or educational and interpretative materials and services, for sale to the public.

(b) Pursuant to Article 1 (commencing with Section 5080.02) of Chapter 1.2 of Division 5, a concession may provide materials and services that are intended to add to the convenience, enjoyment, and safety of state park system visitors. A concession may also provide, pursuant to this section, educational and interpretive materials and services, as described in paragraphs (2) and (3) of subdivision (d), with the approval of the department.

(c) A cooperating association may provide, pursuant to this section, noneducational and noninterpretive materials and services, as described in paragraph (4) of subdivision (d), or other materials or services that would enhance the visitor experience, as part of its cooperating association program with the approval of the department, if the department is unable to obtain, through a good faith effort, a concessionaire to provide those materials and services.

(d) For purposes of this section, the following definitions apply:

(1) “Cooperating association” means a corporation that meets all of the following criteria:

(A) The corporation is a nonprofit public benefit corporation, organized pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code.

(B) The articles of incorporation of the corporation state that the specific purpose of the corporation is to provide support for educational and interpretive programs of the state park system, or portions of the programs.

(C) The corporation has a cooperating association program contract with the department.

(D) The corporation is in compliance with the department’s policies and guidelines regarding cooperating associations and has obtained the department’s approval for its educational and interpretive materials and services.

(2) “Educational and interpretive materials” include items that promote visitor appreciation, understanding, and knowledge of natural, cultural, and historic resources of the state park system, including educational and interpretive gifts and souvenirs.

(3) “Educational and interpretive services” include those activities and programs that focus on natural, cultural, and historic

resources of the state park system and are not generally offered by the department.

(4) “Educational and interpretive materials and services” do not include lodging, food service, horse and equipment rentals, camping supplies, gifts and souvenirs, other than those described in paragraph (2), transportation, except for equipment owned by the department, recreational lessons, and the operation of specialized facilities within a state park unit such as the theater at Hearst San Simeon State Historic Monument and Old Town San Diego State Historic Park, golf courses, and marinas.

(e) The department, at its discretion, may provide the services of department personnel and shall provide space, if available, for the sale of cooperating association materials, services, or both, within a state park unit.

(f) Subject to rules and regulations that the director shall adopt, all moneys collected by the cooperating association or received by the department from the sale of cooperating association materials, services, or both, provided by a cooperating association shall be retained by or returned to the cooperating association for use in the programs of the state park system unit that the cooperating association has been designated to serve.

SEC. 4. Section 5001 of the Public Resources Code is amended to read:

5001. (a) The Legislature finds and declares all of the following:

(1) California’s state parks are a true reflection of our state’s collective history, natural and cultural heritage, and ideals. The state parks can be models of healthy, natural, and sustainable ecosystems and they can also commemorate important cultural traditions or historic events. To remain relevant now and into the future, state parks must protect California’s heritage and be welcoming in order that visitors may understand and appreciate these special places that have been set aside for their inspiration and enjoyment.

(2) The state parks and other nature, recreation, and historic areas deserve to be preserved and managed for the benefit and inspiration of all state residents and visitors to the state parks. It is the intent of the Legislature to clarify the priorities and responsibilities of state agencies with respect to the management and administration of the state park system.

(3) Individual units of the state park system derive increased importance and recognition through their inclusion in a unified state park system that is preserved and managed for the benefit and inspiration of all Californians and visitors to the state.

(b) The Department of Parks and Recreation has control of the state park system.

SEC. 5. Section 5001.2 is added to the Public Resources Code, to read:

5001.2. The director shall promote and regulate the use of the state park system in a manner that conserves the scenery, natural and historic resources, and wildlife in the individual units of the system for the enjoyment of future generations.

SEC. 6. Section 5002.2 of the Public Resources Code is amended to read:

5002.2. (a) (1) Following classification or reclassification of a unit by the State Park and Recreation Commission, and prior to the development of any new facilities in any previously classified unit, the department shall prepare a general plan or revise any existing plan, for the unit.

(2) The general plan shall consist of elements that will evaluate and define the proposed land uses, facilities, concessions, operation of the unit, any environmental impacts, and the management of resources, and shall serve as a guide for the future development, management, and operation of the unit.

(3) The general plan constitutes a report on a project for the purposes of Section 21100. The general plan for a unit shall be submitted by the department to the State Park and Recreation Commission for approval.

(b) The resource element of the general plan shall evaluate the unit as a constituent of an ecological region and as a distinct ecological entity, based upon historical and ecological research of plant-animal and soil-geological relationships and shall contain a declaration of purpose, setting forth specific long-range management objectives for the unit consistent with the unit's classification pursuant to Article 1.7 (commencing with Section 5019.50), and a declaration of resource management policy, setting forth the precise actions and limitations required for the achievement of the objectives established in the declaration of purpose.

(c) Notwithstanding subdivision (a), the department is not required to prepare a general plan for a unit that has no general plan or to revise an existing plan if the only development contemplated by the department consists of the repair, replacement, or rehabilitation of an existing facility; the construction of a temporary facility, if the construction does not result in the permanent commitment of a resource of the unit; any undertaking necessary for the protection of public health or safety; or any emergency measure necessary for the immediate protection of natural or cultural resources; or any combination of these activities at a single unit. Any development is subject to the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

(d) Notwithstanding subdivision (a), the department is not required to prepare a general plan or revise an existing plan for a unit to which new development is necessary to comply with public service delivery obligations, operational or code compliance upgrades, or resource preservation requirements that are compatible with the classification of the unit. The department may instead prepare a management or development plan with appropriate environmental review and analysis.

(e) Consistent with good planning and sound resource management, the department shall, in discharging its responsibilities under this section, attempt to make units of the state park system accessible and usable by the general public at the earliest opportunity.

(f) The department may prepare a general plan that includes more than one unit of the state park system for units that are in close proximity to one another and that have similar resources and recreational opportunities if that action will facilitate the protection of public resources and public access to units of the state park system.

SEC. 7. Section 5080.16 of the Public Resources Code is amended to read:

5080.16. If the director determines that it is in the best interests of the state, the director, upon giving notice to the State Park and Recreation Commission, may negotiate or renegotiate a contract, including terms and conditions, when one or more of the following conditions exist:

(a) The bid process as prescribed in this article has failed to produce a best responsible bidder.

(b) The negotiation or renegotiation would constitute an extension of an existing contract obtained through the process required by this article and the extended contract would provide for substantial and additional concession facilities, which would be constructed at the sole expense of the concessionaire and which are set forth in the general plan for the unit and are needed to accommodate existing or projected increased public usage.

(c) Lands in the state park system administered by the department and lands under the legal control of the prospective concessionaire are so situated that the concession is dependent upon the use of those public and private lands for the physical or economic success, or both, of the concession.

(d) Whenever a concession is desired for particular interpretive purposes in a unit of the state park system and the prospective concessionaire possesses special knowledge, experience, skills, or ability appropriate to the particular interpretive purposes.

(e) Whenever the concession has been severely and adversely impacted through no fault of the concessionaire by an unanticipated calamity, park closure, major construction, or other harmful event or action.

(f) Whenever the estimated administrative costs for the bid process exceed the projected annual net rental revenue to the state.

SEC. 8. Section 5080.42 of the Public Resources Code is amended to read:

5080.42. (a) Notwithstanding any other provision of this article, the department may enter into an operating agreement with a qualified nonprofit organization for the development, improvement, restoration, care, maintenance, administration, or operation of a unit or units, or portion of a unit, of the state park system, as agreed to by the director. The prohibition on park closures, pursuant to subdivision (a) of Section 541.5, does not limit the department's authority to enter into an operating agreement pursuant to this section, as provided in subdivision (e) of Section 541.5. The department may only enter into an operating agreement that involves the operation of the entirety of a park unit for no more than 20 park units. An operating agreement with a qualified nonprofit organization shall include, but shall not be limited to, the following conditions:

(1) The district superintendent for the department shall provide liaison with the department, the nonprofit organization, and the public.

(2) The nonprofit organization shall annually submit a written report to the department regarding its operating activities during the prior year and shall make copies of the report available to the public upon request. The report shall be available on the Internet Web sites of both the department and the nonprofit organization. The report shall include a full accounting of all revenues and expenditures for each unit of the state park system that the nonprofit organization operates pursuant to an operating agreement.

(3) (A) Except as provided in subparagraph (B), all revenues that the qualified nonprofit organization receives from a unit shall be expended only for the care, maintenance, operation, administration, improvement, or development of the unit. The qualified nonprofit organization may additionally contribute in-kind services and funds raised from outside entities for the care, maintenance, operation, administration, improvement, or development of the unit.

(B) If the qualified nonprofit organization determines that the revenues it has received from a unit are in excess of the revenues that are needed for the care, maintenance, operation, administration, improvement, or development of that unit, and that these funds are not already specified for or committed to specific purposes pursuant to an existing agreement or contract restricting the use of those funds, the qualified nonprofit organization may dedicate those excess revenues to another state park unit for that unit's care, maintenance, operation, administration, improvement, or development.

(4) General Fund moneys shall not be provided to a nonprofit organization to subsidize the operation or maintenance of a park unit. This paragraph applies to state parks, the full operation of which are turned over to a nonprofit organization, but does not apply to or preclude the department from entering into agreements with nonprofit organizations to operate a portion of a state park unit, or from entering into comanagement agreements with nonprofit organizations that involve the sharing of operational and financial responsibilities for the park unit and that have the effect of reducing state costs. This paragraph does not apply to park entrance fees, concession revenues, or any other revenues generated

within a park operated by a nonprofit organization pursuant to this section.

(b) An operating agreement entered into pursuant to subdivision (a) shall honor the existing term of a current concession contract for the state park unit subject to the operating agreement.

(c) An operating agreement entered into pursuant to subdivision (a) shall specify the duties that the nonprofit organization shall be responsible for carrying out relative to management and protection of natural, historical, and cultural resources, and shall identify those management duties that shall continue to be conducted by the department, so that all core operations of the park are delineated. Scientific, architectural, and engineering functions that require special expertise or professional training shall only be conducted by or under the supervision of qualified persons with applicable expertise or training and subject to oversight by the department.

(d) This section does not supersede the requirements of Section 5019.53 regarding the protection of natural, scenic, cultural, and ecological values.

(e) The nonprofit organization and the district superintendent for the department shall, following submittal of the annual report pursuant to subdivision (a), hold a joint public meeting for discussion of the report.

(f) If the department intends to enter into an operating agreement for the development, improvement, restoration, care, maintenance, administration, or operation of a unit or units, or a portion of a unit, the department shall notify the Member of the Legislature in whose district the unit is located, the Chair of the Senate Committee on Natural Resources and Water, the Chair of the Assembly Committee on Water, Parks, and Wildlife, and the chairs of the Assembly and Senate budget committees of that intention. The notification shall include estimated operating costs and revenues and core duties and responsibilities that are likely to be assigned to the nonprofit organization and the department.

(g) For purposes of this section, a qualified nonprofit organization is an organization that is all of the following:

(1) An organization that is exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code.

(2) An organization that has as its principal purpose and activity to provide visitor services in state parks, facilitate public access

to park resources, improve park facilities, provide interpretive and educational services, or provide direct protection or stewardship of natural, cultural, or historical lands, or resources.

(3) An organization that is in compliance with the Supervision of Trustees and Fundraisers for Charitable Purposes Act, Article 7 (commencing with Section 12580) of Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code.

(h) (1) Notwithstanding Section 10231.5 of the Government Code, the department shall provide a report to the Legislature, on a biennial basis, of the status of operating agreements it has entered into pursuant to this section. The report shall include a list of units of the state park system with operating agreements, discussion of the management and operations of each unit subject to an operating agreement, an accounting of the revenues and expenditures incurred under each operating agreement, and an assessment of the benefit to the state from operating agreements entered into pursuant to this section.

(2) A report submitted pursuant to paragraph (1) shall be submitted in compliance with Section 9795 of the Government Code.

SEC. 9. Section 5080.44 is added to the Public Resources Code, to read:

5080.44. (a) The department may accept donations of money from public or private sources to be used for the purpose of funding park programs to benefit youth, as described in subdivision (b).

(b) Notwithstanding Article 4 (commencing with Section 10335) of Chapter 2 of Part 2 of Division 2 of the Public Contract Code, the department may enter into agreements, including agreements that involve the transfer of funds appropriated to the department, with public or nonprofit organizations that serve youth to provide service and learning opportunities for young people by performing work on state park system programs and projects under the supervision of department employees, where the work is not being performed by state park employees. Programs and projects covered under this subdivision include all of the following:

(1) Restoring California's natural, historic, archaeological, recreational, and scenic resources.

(2) Training young people to be public land and resources managers and stewards for careers in public service.

(3) Undertaking appropriate cultural and natural resource conservation in a cost-effective and appropriate manner.

Approved _____, 2015

Governor